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Chapter 7 Trustee

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA, SANTA ANA DIVISION

In re
KRISTINA LYNN SMITH,

Debtor.

Case No. 8:24-bk-12527-TA

Chapter 7

NOTICE OF CHAPTER 7 TRUSTEE'S
APPLICATION TO EMPLOY REAL ESTATE
AGENT

**[11 U.S.C. §§ 327(a) and 328(a);
FRBP 2014; and LBR 2014-1(b)]**

[No Hearing Required Unless
Requested – LBR 9013-1(o)(1)]

TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY
JUDGE, THE OFFICE OF THE UNITED STATES TRUSTEE, AND ALL OTHER
INTERESTED PARTIES:

PLEASE TAKE NOTICE that Richard A. Marshack, Chapter 7 Trustee (“Trustee” or
“Applicant”) for the bankruptcy estate (the “Estate”) of Kristina Lynn Smith (“Debtor”), has
filed an application for authorization to employ Clarence Yoshikane of BHHS / Berkshire
Hathaway HomeServices CA Properties as the Trustee’s real estate agent (“Agent”) in this
bankruptcy case (the “Application”).

On October 3, 2024, Debtor filed a voluntary petition under Chapter 7 of Title 11 the
United States Code. On the same date, Richard A. Marshack (“Trustee”) was appointed as the
Chapter 7 trustee.

1 In her Schedule A/B, Debtor lists an ownership interest in real property located at and
2 commonly known as 27591 Kathy Ct., Laguna Niguel, CA 92677 ("Property") which Debtor
3 values at \$1,924,800. The Property is a single-family home in Orange County, California. Title
4 to the Property is held in joint tenancy of the Debtor and Jeff Gomez.

5 Debtor's Amended Schedule C reflects an exemption in the amount of \$699,421 and
6 Schedule D reflects liens totaling \$897,508.

7 Agent has viewed the Property and, based on the comparable sales in the area, the current
8 market value of the Property is \$1,800,000 to \$2,000,000.

9 In order to market the Property most effectively, and thereby to liquidate the same for
10 the best and highest price, Trustee has solicited the assistance of Agent, a licensed real estate
11 agent. Agent, on behalf of Trustee, has examined the information related to the Property and has
12 agreed to advertise the Property at the Agent's expense, to show the Property to interested
13 parties, to represent the Estate as seller in connection with the sale of the Property, and to advise
14 Trustee with respect to obtaining the highest and best offers available in the present market.
15 Based on the foregoing agreement, Trustee desires to enter into listing agreement and addendum
16 (the "Listing Agreement"), in substantially the form as attached to the Application as **Exhibit**
17 **"1,"** to employ Clarence Yoshikane of Berkshire Hathaway HomeServices CA Properties as the
18 Estate's real estate agent to procure and submit to Trustee offers to purchase the Property.

19 In consideration for such services, subject to further application and Court order, the
20 Agent will receive, upon consummation of a sale, a real estate agent's commission in an amount
21 equal to six percent (6%) of the purchase price, subject to a carve-out to the Estate of two percent
22 (2%) of the total commission.

23 Agent has been informed and understands that no sale of the Property may be
24 consummated until after a notice to creditors with the opportunity for a hearing as well as a
25 Court order.

26 Agent is aware of the provisions of Bankruptcy Code Section 328(a) and has agreed,
27 notwithstanding the terms and conditions of employment herein set forth, that the Court may
28 allow compensation different from the compensation provided herein if such terms and

1 conditions proved to have been improvident in light of developments unanticipated at the time of
2 the fixing of such terms and conditions.

3 The Agent has not received any retainer or other compensation for its retention by the
4 Trustee and will only receive compensation as authorized by this Court pursuant to this
5 Application to be paid from the proceeds of the sale of the Property.

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7 Dated: April 11, 2025

Respectfully submitted,

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9 /s/ Richard A. Marshack
Richard A. Marshack, Chapter 7 Trustee for the
10 Bankruptcy Estate of Kristina Lynn Smith

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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
870 Roosevelt Avenue, Irvine, CA 92620

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF TRUSTEE'S APPLICATION TO EMPLOY REAL ESTATE AGENT** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF)**: Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 11, 2025**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

☒ Service information continued on attached page

2. **SERVED BY UNITED STATES MAIL**: On **April 11, 2025**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☒ Service information continued on attached page

3. **SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL** (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on , I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 11, 2025 Pamela Kraus
Date *Printed Name*

/s/ Pamela Kraus
Signature

1. **TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF):** continued:

- **David Coats** dacoats@raslg.com
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- **Jennifer C Wong** bknotice@mccarthyholthus.com, jwong@ecf.courtdrive.com

2. **SERVED BY UNITED STATES MAIL:**

DEBTOR

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